1952.

File No. Sales Tax II
52(B)

Legal Deptt
B BRANCH

p 2(E)

Subject:— Rules under the Bombay Sales Tax Act, 1946

File No. Sales Tax II/52(B)

Gen. 194 e.

2857-B

Legal Departme.

No useful pruposo will be served by carrying on correspondence with the Chamber of Commerce in regard to cases of hypothetical nature. As already pointed out each fact will have to be decided on its own merits. In addition to the circumstances which are set out in the Chamber's letter, there may be circumstances which may indicate that the distributor in Ahmedabad is a dealer in addition to his being an agent or is merely an agent. This has been realised by the Chamber in the first paragraph of their note. The questions raised by the Chamber really amount to finding out how and in what manner a person can avoid taxation at more than one point. These are not the questions which can be or should be answered and it will not be desirable to do so.

2. In para 1 of the further memorandum sent by the Chamber of Commerce, it is conceded that in case No. 3 the mere intervention of a distributor or a selling agent does not cause another taxable state. In other words the transaction through the distributor or selling agent does not become a sale to him and then a sale by him to the buyer. The question raised is whether the making of invoices by such distributor or selling agent would make any difference. Such a circimstance would be material and will have to be taken into consideration in cetermining whether there is a sale at one point or there are sales at more than one point. But each case will have to be decided on its merits. In the case referred to in para 3 of the memorandum where the goods are sent under one consignment, and are taken delivery by the distributor who

the distributor who then sorts out and invoices them, it ~~out~~ would appear that the distributor is not a mere selling agent but is also a dealer and carries out sales to various buyers. In the case refered to in para 3 the stress is again being laid whether the making of invoices would make any difference. As stated above it would be a material fact to be taken into account whether there has been sale in his favour and it would depend upon various circumstances whether this is so or not.

Additional Secretary to Government.

U.O. to F.D., No. 1297/B Confl. dated the 25 th November 1952.

~~SSmM~~

SSM / 3/7/58.